

BEFORE

THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 91-164-W/S - ORDER NO. 92-115 ✓

FEBRUARY 20, 1992

IN RE: Application of Hilton Head Plantation	)	ORDER
Utilities, Inc. for Approval of Increased	)	DENYING RATES
Rates and Charges for Water and Sewage	)	AND CHARGES
Services Provided to Customers in its	)	
Service Area.	)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of Hilton Head Plantation Utilities, Inc. (Hilton Head or the Company) for approval of a new schedule of rates and charges for its water and wastewater customers on Hilton Head Plantation, Hilton Head Island, Beaufort County, South Carolina. The Company's August 8, 1991 Application and August 14, 1991 amended Application were filed pursuant to S.C. Code Ann. §58-5-240 (1976) and 26 S.C. Regs. 103-821 (1976).

By letter, the Commission's Executive Director instructed the Company to publish a prepared Notice of Filing, one time, in a newspaper of general circulation in the area affected by the Company's Application. The Notice of Filing indicated the nature of the Company's Application and advised all interested parties desiring participation in the scheduled proceeding of the manner and time in which to file the appropriate pleadings. The Company was likewise required to directly notify all customers affected by

the proposed rates and charges. No Petitions to Intervene were filed. However, several Notices of Protest were filed by residents of Hilton Head Plantation.

The Commission Staff (Staff) made on-site investigations of the Company facilities, audited the Company's books and records, and gathered other detailed information concerning the Company's operation.

A public hearing relative to the matters asserted in the Company's Application was held on January 16, 1992 at 2:30 p.m. in the Hearing Room of the Commission at 111 Doctors Circle, Columbia, South Carolina. Pursuant to S.C. Code Ann. §58-3-95 (Supp. 1990), a panel of three Commissioners was designated to hear and rule on this matter. The panel was comprised of Chairman Marjorie Amos-Frazier, Henry G. Yonce, and Warren D. Arthur, IV. Chairman Amos-Frazier presided. John M.S. Hoefer, Esquire, represented the Applicant, Hilton Head Plantation Utilities, Inc., and F. David Butler, Esquire, represented the Commission Staff.

The Company presented the testimony of Patrick C. Flynn, Vice President and General Manager of Hilton Head Plantation Utilities, Inc. and Michael J. Lubarsky, Accountant, of Melrose Management Company, Inc. The Commission Staff presented the testimony of D. Joe Maready, Accountant, and Charles A. Creech, Chief of the Water and Wastewater Department. Protestants Richard C. Pilsbury and Clifford J. Tichenor testified also.

South Carolina Code Annotated §58-5-290 (1976), as amended, imbues this Commission with the authority to change the rates of a

"public utility" whenever the Commission finds, after hearing, that such rates are "unjust, unreasonable, non-compensatory, inadequate, discriminatory or preferential or in any wise in violation of any provision of law." A public utility is defined by S.C. Code Ann. §58-5-10(3) (1976, as amended), as including "every corporation and person furnishing or supplying in any manner, gas, heat (other than by means of electricity), water, sewage collection, sewage disposal, and street railway service, or any of them to the public, or any portion thereof, for compensation." Section 58-5-290 also provides that when the Commission determines that a utility's rates are unlawful, the Commission shall determine and fix by Order the "just and reasonable" rates to be thereafter charged by the public utility. The Commission finds and concludes in this proceeding that the Company is a public utility under the provisions of S.C. Code Ann. §58-5-10(3) (1976, as amended). The Commission also finds, based on the reasoning described below, that the rates proposed by Hilton Head Plantation Utilities, Inc. are unjust and unreasonable and that the rates as presently charged are just and reasonable, and should therefore remain in effect.

Based on its thorough consideration of the evidence presented at the hearing, Hilton Head's verified amended Application, and the applicable law, the Commission makes the followings findings of fact and conclusions of law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Hilton Head is a South Carolina corporation which provides water and wastewater service to 2,594 residential and commercial customers in Beaufort County, South Carolina.

2. The Company's present rates and charges were approved by Order No. 87-720, dated July 10, 1987, in Docket No. 86-124-W/S.

3. At present, Hilton Head Plantation Utilities, Inc. requires the following minimum charges for the first 4,000 gallons of water based on meter size.

<u>Meter Size</u>	<u>Monthly Minimum</u>
5/8 Inch	\$9.00
3/4 Inch	\$10.50
1 Inch	\$13.00
1½ Inch	\$16.00
2 Inch	\$32.00 or \$9.00 x the number of units, whichever is greater

The Company also charges 75¢ per thousand gallons for the next 12,000 gallons and \$1.25 per thousand gallons for all water over 16,000 gallons. The presently approved sewer charge is a flat rate of \$15.00.

4. The proposed water charges are \$10.00 for basic facility charge and a 75¢ per thousand gallon commodity charge with a \$1.25 surcharge over 16,000 gallons. With regard to sewer, a flat rate of \$25.00 is proposed per single family equivalent. If granted, these proposed rates would increase a residential customers average monthly water bill by 12.41% and commercial customers' by 22.08%. With regard to proposed sewer rates, the average residential sewer rate would increase by 88.94% and commercial sewer rate by 243.47%.

However, the commercial customers' rates were affected such that the rate changes were in a range between minus 40.9% and a positive 1,999%.

5. The Commission finds the statement of Protestant Richard Pilsbury, President of the Hilton Head Plantation Property Owners Association, is significant. Pilsbury pointed out that under operations and maintenance expense for the actual year ending October 30, 1990, and pro forma proposed, one line item is listed as effluent disposal rights, and shows an expense of \$90,956, which is listed as an annual charge for effluent disposal rights to the Cypress Conservancy. Pilsbury noted in his statement that the Cypress Conservancy is owned by the Hilton Head Property Owners Association, and that the Association was agreeable to having the treated effluent introduced into the Conservancy, as this provides needed irrigation. However, Pilsbury stated that the Property Owners' Association receives no compensation for allowing the utility to do this. However, Pilsbury noted that the \$90,956 listed as an expense is actually paid to Hilton Head Plantation Utilities' parent Company, the Hilton Head Plantation Limited Partnership, for use of their easement rights which were retained when Cypress Conservancy was deeded to the Association in 1979. Pilsbury states that the \$90,956 funded by the utility's customers is a simple transfer of money to the parent company. An examination of the Commission file reveals that the contract embodying this arrangement has never been submitted to the Commission for approval, under Commission Regulation 103-541, which

requires that such contracts be submitted for Commission approval.

Another item cited by Pilsbury in the Company's operation and maintenance expenses is an annual expense of \$144,000 for land leases. Pilsbury stated that this is another example of a passing of funds from the utility to the parent company, which represents a rental charge by the parent of \$12,000 per month for land used for spray fields for effluent disposal. Again, the Commission would note that a search of its files fails to reveal that this contract was ever submitted for Commission approval under Regulation 103-541. Pilsbury also notes and questions the entry of \$20,000 for management fees, which he states was compensation for officers of the parent company who double as President and Treasurer of the utility company. In addition, Pilsbury cites \$99,000 per year for accounting fees as being listed in the Company's expenses. Pilsbury implies that this sum is also passed from the utility to the parent company.

6. The Commission believes that Pilsbury's statement raises questions about seemingly less-than-arms-length transactions taking place between Hilton Head Plantation Utilities, Inc. and Hilton Head Plantation Limited Partnership. The Commission also believes that these expenses bring into question the entire amount of O&M expenses required by the Company as legitimate operation and maintenance expenses, which are passed on to their ratepayers, and the rates proposed by the Company to collect these monies. The Commission holds that the record before it fails to provide the answers to these questions. The Commission is also concerned about

the fact that under the proposed sewer rates, commercial customers will receive changes in rates from negative 40% to positive 1,999%. An examination of the record reveals that the Company's notice to its commercial customers failed to provide the commercial customers with a method which would allow them to determine the true amount of rate change likely to occur.

7. The Commission is of the opinion that, due to the questionable validity of the expenses in the Company's Application cited by Protestant Pilsbury, that the validity of the Company's amended Application and rate request is brought into question.

8. The amount and quantity of expenses is further brought into question by the Company's presentation on the hearing day of approximately \$23,000 in additional rate case expenses, in accounting and data processing fees and the Company's presentation of substantial attorney's fees.

9. Because of the above reasoning, the Commission believes that the proposed rates as submitted are unjust and unreasonable. As per S.C. Code Ann. §58-5-290 (1976, as amended), the Commission finds and concludes that the present rates as granted to the utility by the July 10, 1987 Order are just and reasonable.

10. The Company's amended Application is hereby denied.

11. The Commission hereby Orders the Company, in its next rate filing, to include justification for the \$90,256 easement payment, the \$144,000 payment for spray fields, the management fees, accounting fees, and attorney's fees presented. The Commission also Orders the Company to show that the transactions

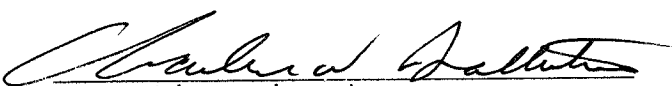
between it and the parent company as stated above, were arms length transactions.

12. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
VICE Chairman

ATTEST:

  
Executive Director

(SEAL)